

DE 01-098

CONNECTICUT VALLEY ELECTRIC COMPANY

In The Matter Of The Implementation Of The Electricity  
Consumption Tax

Order Approving Stipulation

O R D E R    N O.    23,760

August 16, 2001

**APPEARANCES:** Ransmeier & Spellman PC by Dom S. D'Ambruoso, Esq. for Connecticut Valley Electric Company; and Gary Epler, Esq. for the Staff of the New Hampshire Public Utilities Commission.

**I.    PROCEDURAL HISTORY**

On April 30, 2001, the New Hampshire Public Utilities Commission (Commission) issued an Order of Notice in this docket (Order No. 23,696) requiring that effective May 1, 2001, pursuant to the provisions of RSA 83-E:2 and RSA 83-E:3, an electricity consumption tax of \$.00055 per kWh was to be collected and remitted to the state by Connecticut Valley Electric Company (CVEC or the Company). The Order of Notice also ordered that a prehearing conference and hearing on temporary rates, pursuant to RSA 378:27, be held to consider the fixing of rates until all issues concerning the implementation of the consumption tax were resolved. The Commission also provided that the same issues in Dockets DE 01-096, Granite State Electric Company (GSEC), and DE 01-097, Concord Electric Company and Exeter and Hampton Electric

Company (Unitil Companies), be heard at the same time. On May 11, 2001, the duly noticed prehearing conference was held. On June 6, 2001, CVEC filed a Motion for Protective Order to keep confidential certain New Hampshire tax returns requested by Staff in data requests of the Company. On July 23, 2001, the Commission issued Order No. 23,743, approving temporary rates for CVEC as well as GSEC and the Unitil Companies, pending an investigation into the technical aspects of the implementation of the consumption tax, the repeal of the franchise tax, and the resulting impacts on the Business Profits Tax liability of the Companies.

## **II. POSITIONS OF THE PARTIES AND STAFF - STIPULATION**

### **AGREEMENT**

On July 24, 2001, a hearing was held to consider a Stipulation Agreement between CVEC and Staff to resolve all the issues in this docket. As an initial matter, and after determining that there were no objections from any party or Staff, the Commission approved CVEC's Motion for Protective Order as filed on June 6, 2001, finding that the information at issue was confidential financial and commercial information which, if made public, would create a competitive disadvantage for the petitioner.

C.J. Frankiewicz, Financial Analysis Coordinator for

CVEC, presented the Stipulation Agreement. The Agreement provides for slight rate changes to CVEC customers, with Rate D-1 increasing 0.3% and all other rate classes changing plus or minus 0.1%. The Agreement provides for the elimination of the franchise tax from CVEC's base energy and base capacity charges, and provides for removal of references to recovery of franchise tax from its FAC and PPCA tariff pages. The Agreement authorizes CVEC to bill a Business Profits Tax Percentage Adjustment (BPTAP) designed to reflect: 1) a recoupment for the period May 1, 2001 through August 31, 2001, the period temporary rates are in effect; 2) estimated BPTAP revenues for the period September 1, 2001 through December 31, 2001; 3) estimated Business Profits Tax (BPT) expense, inclusive of tax gross-up, for the period May 1, 2001 through December 31, 2001; 4) a one-time set up of accumulated deferred income taxes (ADIT) estimated at \$375,842 related to BPT, inclusive of tax gross-up; and 5) an estimated ending balance undercollection of \$273,887 at December 31, 2001. CVEC will file a reconciliation of the BPTPA on an annual basis in a similar manner to its FAC and PPCA. Such annual reconciliation may not involve a change to the BPTPA rate if the amount of such change would be small.

### **III. COMMISSION ANALYSIS**

We have reviewed the Stipulation Agreement submitted at hearing in this proceeding, and we find it an acceptable resolution of the matters associated with the implementation of the Electricity Consumption Tax under RSA 83-E, and the simultaneous elimination of the franchise tax. Our prior approval of temporary rates for CVEC, and the reconciliation provided for in the Agreement, resolves the issue of ending collection of the franchise tax and providing a return of those dollars to customers. The implementation of a BPTAP of 0.80% of revenue, with an annual reconciliation, provides protection to both CVEC and its customers from the volatility the Company indicated it expects to occur as a small part of a much larger corporate entity subject to New Hampshire apportionment rules for the BPT. The use of an adjustment factor for the BPT is similar to the methodology this Commission approved for recovery of the franchise tax when it was re-instituted in 1993. We note that under section 2.10 of the Agreement this change will be implemented on September 1, 2001 on a bills rendered basis.

**Based upon the foregoing, it is hereby**

**ORDERED,** that the Stipulation Agreement submitted in this proceeding by CVEC and Staff, providing for elimination of the franchise tax from CVEC's rates, the implementation of

a Business Profits Tax Adjustment Percentage of 0.80%, and the reconciliation of temporary rates, is approved; and it is

**FURTHER ORDERED,** that the following tariff pages:

Fifth Revised Page 13, Eighth Revised Page 14, Seventh Revised Page 15, Fifth Revised Page 16, Sixth Revised Page 16-A, Fifth Revised Page 21, Fifth Revised Page 22, Thirteenth Revised Page 24, Twelfth Revised Page 26, Twelfth Revised Page 27, Thirteenth Revised Page 29, Twelfth Revised Page 30, Eleventh Revised Page 32, Thirteenth Revised Page 33, Thirteenth Revised Page 34, Eleventh Revised Page 36, Tenth Revised Page 37, Eleventh Revised Page 38, Tenth Revised Page 39, Thirteenth Revised Page 40, Thirteenth Revised Page 41, Thirteenth Revised Page 43, Thirteenth Revised Page 44, Ninth Revised Page 46, Ninth Revised Page 48, are approved; and it is

**FURTHER ORDERED,** that CVEC's June 6, 2001 Motion for Protective Order is approved, subject to the ongoing right of any person to request reconsideration, or of the Commission on its own motion, to reconsider the grant of the protective order.

By order of the Public Utilities Commission of New  
Hampshire this sixteenth day of August, 2001.

---

Douglas L. Patch  
Chairman

---

Susan S. Geiger  
Commissioner

---

Nancy Brockway  
Commissioner

Attested by:

---

Thomas B. Getz  
Executive Director and Secretary